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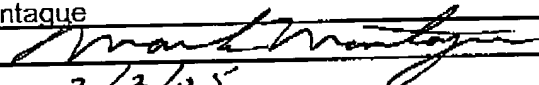
PTO/SB/21 (02-04)

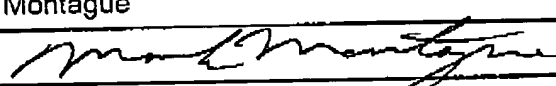
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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	09/635,330	
	Filing Date	August 9, 2000	
	First Named Inventor	Luis Eduardo Gutierrez-Sheris	
	Art Unit	3624	
	Examiner Name	Stefanos Karmis	
Total Number of Pages in This Submission	15	Attorney Docket Number	25153-003

ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> For Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance communication to Technology Center (TC)
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
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SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	Cowan Liebowitz & Latman, P.C. Mark Montague
Signature	
Date	2/2/05

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Date	February 2, 2005

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PTO/SB/17 (01-03)

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FEE TRANSMITTAL
for FY 2003

Effective 01/01/2003. Patent fees are subject to annual revision.

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$ 60.00)

Complete if Known

Application Number	09/835,330
Filing Date	August 9, 2000
First Named Inventor	Gutierrez-Sheris
Examiner Name	Karmis
Art Unit	3624
Attorney Docket No.	25153-003

METHOD OF PAYMENT (check all that apply)☐ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None☒ Deposit Account

Deposit Account Number	03-3415
Deposit Account Name	Cowan Liebowitz & Latman, P.C.

The Commissioner is authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☒ Credit any overpayments☒ Charge any additional fee(s) during the pendency of this application☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.**FEE CALCULATION****1. BASIC FILING FEE**

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
1001 750	2001 375	Utility filing fee	
1002 330	2002 165	Design filing fee	
1003 520	2003 260	Plant filing fee	
1004 750	2004 375	Reissue filing fee	
1005 180	2005 80	Provisional filing fee	

SUBTOTAL (1) (\$)

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims	Extra Claims	Fee from below	Fee Paid
Independent Claims	-20** =	X	
Multiple Dependent	-3** =	X	

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description
1202 18	2202 9	Claims in excess of 20
1201 84	2201 42	Independent claims in excess of 3
1203 280	2203 140	Multiple dependent claim, if not paid
1204 84	2204 42	** Reissue independent claims over original patent
1205 18	2205 9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$)

**or number previously paid, if greater. For Reissues, see above

FEE CALCULATION (continued)**3. ADDITIONAL FEES**

Large Entity Small Entity

Fee Code (\$)	Fee Code (\$)	Fee Description	Fee Paid
1051 130	2051 85	Surcharge - late filing fee or oath	
1052 50	2052 25	Surcharge - late provisional filing fee or cover sheet	
1053 130	1053 130	Non-English specification	
1812 2,520	1812 2,520	For filing a request for ex parte reexamination	
1804 920*	1804 920*	Requesting publication of SIR prior to Examiner action	
1805 1,840*	1805 1,840*	Requesting publication of SIR after Examiner action	
1251 110	2251 55	Extension for reply within first month	60.00
1252 410	2252 205	Extension for reply within second month	
1253 930	2253 465	Extension for reply within third month	
1254 1,450	2254 725	Extension for reply within fourth month	
1255 1,970	2255 985	Extension for reply within fifth month	
1401 320	2401 160	Notice of Appeal	
1402 320	2402 160	Filing a brief in support of an appeal	
1403 280	2403 140	Request for oral hearing	
1451 1,510	1451 1,510	Petition to institute a public use proceeding	
1452 110	2452 55	Petition to revive - unavoidable	
1453 1,300	2453 650	Petition to revive - unintentional	
1501 1,300	2501 650	Utility issue fee (or reissue)	
1502 470	2502 235	Design issue fee	
1503 630	2503 315	Plant issue fee	
1460 130	1460 130	Petitions to the Commissioner	
1807 50	1807 50	Processing fee under 37 CFR 1.17(q)	
1806 180	1806 180	Submission of Information Disclosure Stmt	
8021 40	8021 40	Recording each patent assignment per property (times number of properties)	
1809 750	2809 375	Filing a submission after final rejection (37 CFR 1.129(e))	
1810 750	2810 375	For each additional invention to be examined (37 CFR 1.129(b))	
1801 750	2801 375	Request for Continued Examination (RCE)	
1802 900	1802 900	Request for expedited examination of a design application	

Other fee (specify)

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$ 60.00)

SUBMITTED BY

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Signature

Date February 2, 2005

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Atty Ref: 25153-003
S/N: 09/635,330**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:

Luis Eduardo Gutierrez-Sheris

Examiner: Karmis, Stefanos
Group Art Unit: 3624

Serial No.: 09/635,330

Filed: August 9, 2000

For: MONEY-TRANSFER TECHNIQUES

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450**RESPONSE TO OFFICE ACTION**

This is in response to the office action dated October 5, 2004, the time for responding thereto having been requested to be extended. In view of the following discussion, reconsideration and allowance of this application are respectfully requested.

Claims 1-32 were rejected under 35 U.S.C. 103(a) as being unpatentable over Ito et al. (Ito) (US Patent 6,039,250) in view of Davis et al. (Davis) (US Patent 6,298,336). Applicant respectfully traverses this rejection for the reasons discussed below.

Ito is directed to the use of IC cards for storage and transfer of electronic money. The IC cards are used with so-called information processing units (1, 2) that communicate with an electronic money server (3). The electronic money server may be installed in a bank. (col. 3, lines 17-62). The Ito patent describes the process of

Atty Ref: 25153-003
S/N: 09/635,330

sending electronic money contained in an IC card from one party to an IC card held/owned by another party (col. 4, lines 4-14). To carry out the electronic transfer of electronic money, the "remitter" sets his/her IC card into an information processing unit (1) and remits a designated amount of electronic money to be transferred. (col. 4, lines 22-27). The recipient ("receptor") then must insert his/her IC card into an information processing unit (2) to accept the transfer (and authorize the transfer before the actual transfer is carried out) (col. 5, lines 21-56). The electronic money server (3) facilitates the transfer (col. 4, line 57 to col. 5, line 11). A security key (password), which may be a cipher key, is utilized to ensure proper security of the electronic money transfer (col. 4, lines 51-56; col. 5, lines 31-35).

Davis is directed to activating cards at the point of distribution. Davis addresses the problems encountered with the sale of stored value smart cards, most especially their vulnerability to theft prior to sale. The solution, as proposed in Davis, is to activate stored value cards securely at the point of distribution, i.e., when the card has been purchased. (col. 1, lines 24-35; col. 2, lines 6-11). The details of card activation, whether carried out by a machine (e.g., vending machine) or a human teller, upon purchase of the card is described throughout the detailed description section.

It is Improper to Combine Ito and Davis

It is submitted that it is improper to combine Ito and Davis to reject applicant's claims. Both references pertain to smart cards containing money therein, but otherwise they are quite distinct from one another. Davis pertains solely to how a

Atty Ref: 25153-003
S/N: 09/635,330

smart card is securely activated when purchased, principally to overcome the problem of theft of stored-value cards prior to purchase. Ito pertains to how electronic money can be transferred between different owners of already "activated," as well as disseminated, IC cards. Davis is not concerned at all with transfer of electronic money from one card to another. Ito is not concerned at all with how its IC cards are initially distributed or activated. Moreover, Ito is not concerned with problems of theft of IC cards, before or after distribution (or sale) to individuals. Davis is not concerned with how already purchased cards are utilized or how money can be added to an already activated card.

In view of the foregoing, since Davis is concerned solely with the initial activation of a card at the point of distribution (i.e., sale), and Ito is concerned solely with how money can be transferred between already disseminated cards, why would it be obvious to combine these references?

In the office action, the Examiner asserts that:

"it would have been obvious to one of ordinary skill in the art ... that the teachings of Ito could be modified to include the beneficiary obtaining a new card for transferred funds because it provides an efficient manner to allow a beneficiary to obtain funds, specifically if the beneficiary does not already have an existing smart card and would thus need a new card to obtain the transferred money." (office action, page 4, line 17 to page 5, line 1).

The Examiner's first assertion that "it provides an efficient manner to allow a beneficiary to obtain funds" is without basis. Ito alone purportedly does this and Davis does not add any efficiency to the transfer of funds from one person to another as carried out by Ito. The Examiner's second point -- "specifically if the beneficiary does not already have an existing smart card and would thus need a new card to

Atty Ref: 25153-003
S/N: 09/635,330

obtain the transferred money" -- is a fact scenario that is neither addressed nor suggested in Ito. There is no suggestion, direction or motivation in Ito to deal with the situation of when the recipient does not have an existing smart card. Thus, one of ordinary skill in the art would not be motivated to modify the teachings in Ito so as to provide any sort of activation at distribution of the IC cards discussed in Ito.

Since there is no teaching or suggestion in Ito that pertains to how the disclosed IC cards are activated or distributed, and there is no disclosure in Davis as to how one would or may want to transfer money from one smart card to another, it appears that the Examiner is using applicant's claimed invention as a guide to combine the prior art in a way that purportedly produces the claimed invention. However, the Federal Circuit has been consistent in warning against hindsight reconstruction of the prior art. As pointed out in *Uniroyal v. Rudkin-Wiley*, 5 U.S.P.Q. 2d 1434, 1438 (Fed. Cir. 1988);

"When prior art references require selective combination by the court to render obvious a subsequent invention, there must be some reason for the combination other than the hindsight gleaned from the invention itself Something in the prior art as a whole must suggest the desirability, and thus the obviousness, of making the combination."

* * *

"... it is impermissible to use the claims as a frame in the prior art references as a mosaic to piece together a facsimile of the claimed invention."

Even though the combination of references may suggest the claimed invention, there still must be some teaching or suggestion in at least one of those references or in the prior art as a whole, that would lead one with ordinary skill in the art to make the combination. *Id.* at 1439.

Atty Ref: 25153-003

S/N: 09/635,330

Ito is directed to the transfer of money between IC cards already in the possession of individuals, and this reference is not at all concerned with how those IC cards were activated or how they were obtained by the individuals. Ito clearly does not concern itself with transferring money from one person with an IC card to another who does not have an IC card. Since Ito clearly provides that the recipient has an IC card, the Examiner must be using applicant's claimed invention as the sole basis and motivation to address the situation of how one can transfer money from an IC card to a person who does not have an IC card. U.S. case law provides that such is improper.

In view of the foregoing analysis and authority, it is submitted that it would not have been obvious to one of ordinary skill in the art to combine the teachings of Ito and Davis.

The Combination of Ito and Davis Does Not Produce Applicant's Claimed Invention

Notwithstanding the above discussion, it is further asserted that the combination of Ito and Davis does not produce applicant's claimed invention.

First, it is submitted that one who reads and understands Ito and Davis would combine these two references (*arguendo*) to produce a system/process wherein a non-activated smart card is purchased from vending machines or from a human teller and, at the point of sale, the smart card is activated and provided to the purchaser, in the manner described in Davis. Thereafter, the smart card is utilized, wherein electronic money may be transferred to or from another smart card in the manner described in Ito.

Atty Ref: 25153-003
S/N: 09/635,330

This combination clearly does not carry out or include various features recited in each of the independent claims of the present application. For example, this combination does not carry out the following steps recited in claim 1:

“presenting said unique device pick-up code to one of said distributors”

“activating one of said money pick-up devices and generating a corresponding personal code, via said distributor and said money-transfer company, in response to the step of presenting said unique device pick-up code to one of said distributors.” (emphasis added)

In Davis, activation of a card occurs after payment is made and an issuer activation key 40 previously relayed to the dispensing machine is used to activate the card (col. 5, lines 48; col. 14, lines 18-42). As clearly set forth in col. 5, lines 35-48, reproduced below, the activation key is relayed to the dispensing machine by the issuer of the cards and not by the consumer recipient of the card. Further, the dispensing machine already contains the activation key prior to any purchase of a card. Still further, the security code disclosed in Davis is pre-stored on the card.

“When first produced by card supplier 22, stored value card 30 is not activated, even though it may be loaded with value. (Of course, supplier 22 may also produce cards that are activated.). In conjunction with issuer activation key 40, supplier 22 produces a security code which is stored on card 30. Issuer activation key 40 is also relayed to dispensing machine 24. Card 30 may then be transported to issuer 20, stored and eventually held within machine 24 without substantial risk of theft because the card is not activated and cannot be used to make a purchase. When customer 26 interacts with machine 24 to purchase card 30, issuer activation key 40 is used within machine 24 to reproduce the security code and to activate card 30 so that the value loaded upon it is available for use. Card 30 is then dispensed to customer 26 in exchange for payment.” (emphasis added)

Thus, there is neither teaching nor suggestion in Davis that a device be activated in response to receipt of a device pick-up code.

Atty Ref: 25153-003
S/N: 09/635,330

The Examiner's Proposed Combination Lacks Various Features

As best understood, it appears that the Examiner's proposed combination of Ito and Davis is different from that proposed above. Namely, the Examiner's proposed combination would entail collecting money from a customer using the system disclosed in Ito and then have a beneficiary receive a new card (with the transferred money) using the system disclosed in Davis.

However, one significant deficiency in this proposed combination is that the references, individually or collectively, neither disclose nor suggest providing the beneficiary with a unique device pick-up code that is then presented to a distributor and, in response thereto, activating a money pick-up device, as recited in claim 1. Davis neither discloses nor suggests that the beneficiary provide the vending machine (or the human teller) with some sort of code. It states that the vending machine already contains the codes needed to activate and dispense the card. As for Ito, the Examiner refers to col. 5, lines 28-57 of this reference for disclosing the feature of presenting the unique device pick-up code to a distributor. This section in Ito does provide for an electronic communication from the receptor's IC card to electronic money server 3. However, in the Examiner's proposed combination, the beneficiary (recipient - "receptor") would not have an IC card yet at this point in the process. At best, the proposed combination would entail communication between the customer (i.e., person sending money)(or his/her IC card) and the vending machine or human teller disclosed in Davis. Clearly, the combination would not entail supplying a

Atty Ref: 25153-003
S/N: 09/635,330

device pick-up code to the beneficiary, nor entail providing that supplied code to "a distributor."

Moreover, the Examiner states that Ito discloses providing a beneficiary with a unique device pick-up code and refers to col. 4, lines 43-56 in Ito for support thereof. This section in Ito relates to the transmission of a request by the "remitter" to the electronic money server 3 and, thus, is not applicable.

Another Deficiency: The Personal Code

It is further submitted that the proposed combination would not provide the beneficiary with a "personal code," as recited in claims 1 and 14 ("PIN" in claim 8), nor would the combination entail operating a money dispensing machine to collect money using the activated money pick-up device and the personal code, as recited in claim 1 and similarly recited in claim 8.

In the Office Action, the Examiner acknowledges that:

"Ito fails ... to teach ... giving the beneficiary an activated one of said money pick-up devices and a corresponding personal code; and operating one of said money dispensing machines to collect said sum of money via said beneficiary using said activated one of said money pick-up devices and said corresponding personal code." (Office Action, page 4, lines 7-13).

The Examiner relies upon Davis for allegedly disclosing these features, and refers to col. 7, lines 66 thru col. 8, line 36 for support thereof. Contrary to the Examiner's assertion, Davis does not provide the beneficiary (i.e., recipient of the card) with a personal code that is for use in a money dispensing machine (e.g., an ATM as recited in claim 8). Rather, the codes described in Davis relate to activation and other codes that are used to enable secure activation of a smart at the point of sale

Atty Ref: 25153-003
S/N: 09/635,330

or distribution. Upon activation of a smart card, there are no further codes that are described in this reference.

Moreover, and equally important, Davis actually teaches away from the use of providing a personal code (PIN in claim 8) to the beneficiary, which then must be used with the card to later obtain money, since the principal purpose of the invention described in Davis is to prevent theft of so-called stored-value cards. Logically, if a personal code is provided to the beneficiary when the money pick-up device (ATM card in claim 8) is also supplied to the beneficiary, then the invention in Davis would become completely unnecessary since a stolen card would have no value without knowledge of the personal code. Hence, the combination of Ito and Davis likewise would not provide a personal code or PIN to a beneficiary when an activated money pick-up device is supplied to the beneficiary.

Conclusion

In view of the foregoing discussion, it is respectfully submitted that the combination of Ito and Davis for the purpose of rejecting independent claims 1, 8, 14, 18 and 24 is not proper. Even if proper, these claims are patentably distinct and unobvious over this prior art for the reasons discussed above. It is requested that the rejection of claims 1, 8, 14, 18 and 24 be withdrawn.

As for the dependent claims, since these claims depend either directly or indirectly from one of the independent claims, the foregoing discussion is equally applicable to the dependent claims and is believed to obviate the rejection of claims 2-7, 9-13, 15-17, 19-23 and 25-32.

Atty Ref: 25153-003
S/N: 09/635,330

Arguments specific to Dependent Claims

The Examiner's specifically addresses dependent claims 2, 9, 25, 27 and 29 in the office action on page 5, lines 3-5.

Claims 2, 9 and 27:

Claim 2 recites:

"said activating step includes transmitting said unique device pick-up code from said distributor to said money-transfer company, and transmitting said personal code from said money-transfer company to said distributor"

Claims 9 and 27 also set forth providing a personal code or a PIN. The Examiner asserts that Ito discloses these recited features at col. 5, lines 28-57. However, the Examiner's assertion contradicts the Examiner's prior statements that "Ito fails ...to teach ... generating a corresponding personal code; [and] ... giving the beneficiary ... a corresponding personal code..." (Office Action, page 4, lines 7-13). Applicant agrees with the Examiner that Ito does not generate a personal code, such as recited in applicant's claims. Thus, claims 2, 9 and 27 are further patentably distinct and unobvious over the combination of Ito and Davis.

Claims 5, 12 and 15:

Claims 5, 12 and 15 relate to using an automatic number identification (ANI) signal from the public switch telephone network. The Examiner asserts that Ito allegedly teaches the features recited in claims 5, 12 and 15 and refers to col. 16, lines 11-32 of this reference for support thereof. There is no column 16 in the Ito patent, and it is noted that the Examiner in a prior office action referred to col. 16, lines 11-32 of the Risafi patent, a previously relied-upon patent withdrawn by the Examiner in

Atty Ref: 25153-003
S/N: 09/635,330

light of the applicant's prior response. It is submitted that neither Ito nor Davis discloses or suggests the features recited in claims 5, 12 and 15.

Claims 6, 13 and 16:

Claims 6, 13 and 16 pertain to matching the ANI signal with previously stored distributor data prior to the step of transmitting the personal code (or PIN) from the money-transfer company to the distributor. Neither Ito nor Davis utilize an ANI signal. The Examiner relies upon Davis for allegedly disclosing "matching prior to transmitting the PIN from the processing center back to the customer (column 15, lines 4-42)" (Office Action, page 5, line 14 to page 6, line 2). Contrary to the Examiner's assertions, there is no communication in Davis between the vending machine and any "processing center" during the activation process. Rather, the entire activation process occurs within the vending machine itself, with all activation and other codes and information already pre-stored within the vending machine (see Davis: col. 5, lines 34-48). In any event, using matching of an ANI with previously stored data is neither described nor suggested in the cited prior art. Thus, claims 6, 13 and 16 are patentably distinct and unobvious over Ito and Davis.

Claims 20 and 26:

Claims 20 and 26 state "wherein the providing the beneficiary with the fund pickup number step is carried out by the customer." The Examiner refers to Ito at col. 5, lines 28-40 for allegedly disclosing this feature. (Office Action, page 6, lines 7-8). Contrary to the Examiner's assertion, this section in Ito relates to communication between the receptor's IC card and the electronic money server 3. No where in Ito

Atty Ref: 25153-003
S/N: 09/635,330

does it disclose that the customer (i.e., remitter) supply a "fund pickup number" (or other sort of code) to the customer (i.e., receptor). Therefore, claims 20 and 26 are patentably distinct and unobvious over Ito and Davis.

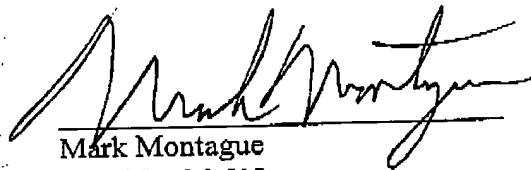
Claim 21

Claim 21 calls for, among other things, providing the beneficiary with a personal code. For those reasons previously discussed (see page 8 above), neither Ito nor Davis discloses the features recited in claim 21.

For the reasons discussed above, each of the dependent claims 2-7, 9-13, 15-17, 19-23 and 25-32 are patentably distinct and unobvious over the combination of Ito and Davis. Therefore, it is requested that the rejection of claims 2-7, 9-13, 15-17, 19-23 and 25-32 be withdrawn.

In light of the foregoing, reconsideration and allowance of this application are respectfully requested.

Respectfully submitted,



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